

REMARKS

The above amendments and these remarks are in response to the Office action mailed on July 29, 2009. In the Office action, claims 26-42 are rejected as being indefinite under 35 U.S.C. § 112, second paragraph. In addition, the Office action rejected claims 1-47 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,442,285 to Rhoads et al. ("Rhoads"). A telephone Examiner Interview was held September 21, 2009.

In the foregoing amendment, claims 1, 13, 26, and 43-47 are amended without prejudice. With entry of the above amendments, claims 1-47 are pending in the application. No claims have been cancelled and no new claims have been added. Accordingly, in view of the remarks below, Assignee respectfully requests reconsideration and allowance of the application.

Summary of Telephone Interview with Examiner

On September 21, 2009, Assignee's representative, attorney of record, Howard A. Skaist, Reg. No. 36,008, participated in a telephone interview with the Examiner, Oschta I. Montoya. **Assignee thanks the Examiner for his time and cooperation during the interview with Assignee's representative.** During the interview, the differences between the document applied by the Examiner ("Rhoads") and the rejected claims were discussed. Assignee's representative and the Examiner discussed proposed language for amendment of the claims. Assignee's representative and the Examiner discussed how the proposed language addresses all of the outstanding rejections. Therefore, Assignee respectfully asserts that the foregoing claims, which now includes the language discussed during the interview, are in condition for allowance. Favorable action in this regard is respectfully solicited.

Anticipation Under 35 U.S.C. § 102(e)

Claims 1-47 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,442,285 to Rhoads et al. ("Rhoads"). For a claim to be anticipated, each and every element of the claim must be disclosed in the single enabling prior art document.

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987); MPEP § 2131.

Without acknowledging the propriety of the Examiner's rejections and in the interest of furthering prosecution of the above-referenced patent application, Assignee has amended independent claims 1, 13, 26, and 43-47 as discussed above. The amendments follow the language discussed during the aforementioned Examiner Interview, and Assignee, therefore, again, believes that the amendments address all of the outstanding §102(e) rejections, as mentioned above. It is noted that the proposed language, which is implemented in the foregoing claims, is supported at least in paragraphs [0058] – [0060] of the originally filed patent application, in Figs. 1-2 and the related description in the specification. Therefore, such amendments add no new matter. Accordingly, Assignee respectfully requests withdrawal of rejections of claims 1-47 under 35 USC § 102 (e).

Indefiniteness Under 35 U.S.C. § 112, Second Paragraph

The Office action rejected claims 26-42 under 35 USC § 112, second paragraph, as being indefinite. Namely, the Office action asserts that claims 26-42 are vague.

Without acknowledging the propriety of the Examiner's rejections and in the interest of again furthering prosecution, Assignee has amended foregoing claims to incorporate language discussed in the aforementioned Examiner Interview. For example, regarding claim 26, as amended, in a particular implementation of a system, electronic signals are changed or modified (e.g., change of state of a portion of a memory) to have a different function and are suitable for a different use and, thus, is deemed a transformation. See Interim Patent Subject Matter Eligibility Examination Instructions Under 35 U.S.C. 101.

Accordingly, Assignee respectfully requests that rejection of independent claim 26 be withdrawn. The remaining dependent claims 27-42 depend from claim 26 and should be allowed when the rejection of independent claim 26 is withdrawn. Accordingly,

Assignee respectfully requests withdrawal of rejection of claims 26-42 under 35 USC § 112, second paragraph.

It is noted that claimed subject matter may be patentably distinguished from the applied document for additional reasons. However, it is believed that the foregoing addresses the issues raised by the Examiner and is sufficient to overcome the Examiner's rejections. Failure to respond to any issues raised in the aforementioned Office Action does not indicate agreement or acquiesce. Rather, in light of the foregoing, such issues are believed to be rendered moot. Therefore, Assignee believes the pending claims are patentable over the art of record and are in condition for allowance.

CONCLUSION

In view of the foregoing amendment and remarks, Assignee respectfully submits that pending claims are in condition for allowance and a notification of such allowance is respectfully requested.

If the Examiner believes that there are any remaining informalities that can be corrected by an Examiner's amendment, a telephone call to the undersigned at 503.439.6500 is respectfully solicited.

In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 50-3130.

Respectfully submitted,

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